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**From:** Wu, Jennifer [Wu.Jennifer@epa.gov]  
**Sent:** 10/23/2018 11:48:26 PM  
**To:** todd.thorn@colvilletribes.com  
**CC:** Merz, Martin [merz.martin@epa.gov]  
**Subject:** 401 certification communications  
**Attachments:** 20181012Opalski-ColSnake401cert.pdf; WA\_Hydro 401 Cert req\_Bartlett ltr.pdf

Hi Todd,

Here is the response letter from Ecology on our original draft 401 certification request on the WA federal dam permits and our letter that we sent this past Friday re-requesting a draft 401 certification.

- Re: CWA Section 401(a)(1) states that “If the State ... fails or refuses to act on a request for certification, within a **reasonable period of time** (which **shall not exceed one year**) after receipt of such request, the certification requirements ... shall be waived ....”
- 40 CFR § 124.53(c) further defines what the EPA has defined as a “reasonable period of time” under Section 401(a)(1). 124.53(c) states that “[i]f State certification has not been received by the time the draft permit is prepared, the Regional Administrator shall send the certifying State agency:”
  - A copy of the draft permit;
  - A statement that the EPA cannot issue or deny the permit until the certifying State agency has granted or denied certification under 124.55 or waived its right to certify; AND
  - A statement that the State will be deemed to have waived its right to certify unless that right is exercised within a specified reasonable time not to exceed 60 days from the date the draft permit is mailed unless the Regional Administrator finds that unusual circumstances require a longer period of time.

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